

APPEAL NO. 042637
FILED NOVEMBER 23, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 8, 2004. The hearing officer determined that: (1) the Texas Workers' Compensation Commission (Commission) has jurisdiction to determine whether the (date of injury), compensable injury extends to the claimed left shoulder injury; (2) the compensable injury does not extend to the left shoulder; and (3) the compensable injury does not extend to or include adhesive capsulitis (frozen shoulder) of the left shoulder. Appellant (claimant) appealed these determinations and contends the evidence shows that the compensable injury includes a left shoulder injury. Respondent (carrier) responded that it agreed that the Commission did not have jurisdiction to consider whether the injury included a left shoulder injury. Carrier also asserted that the hearing officer did not err in making the determination that the compensable injury does not extend to include the claimed left shoulder injury.

DECISION

We affirm as reformed.

We first note that there are typographical errors in the decision. In Finding of Fact No. 6 and Conclusion of Law Nos. 3 and 5, the hearing officer indicated that the compensable injury took place on (alleged date of injury). However, the date of injury is (date of injury), and we reform these findings and conclusions to reflect the correct date of injury.

Claimant attached documents to her appeal that were not admitted at the hearing. Documents submitted for the first time on appeal are generally not considered unless they constitute admissible, newly discovered evidence. We conclude that these attachments to claimant's appeal do not meet the requirements of newly discovered evidence necessary to warrant a remand. Having reviewed the documents, we conclude that admission on remand would not result in a different decision. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ).

The hearing officer did not err in determining that the Commission has jurisdiction to determine whether the (date of injury), compensable injury extends to an injury to the left shoulder. Whether the compensable injury extends to an injury to the left shoulder has not been previously litigated. Another hearing officer considered an issue of extent of injury at a prior hearing on (alleged date of injury). However, this did not preclude the hearing officer in this case from considering whether the injury extends to the left shoulder.

We have reviewed the complained-of determination regarding extent of injury and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination is supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

As reformed, we affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge